

## Senate Bill No. 2018

### CHAPTER 420

An act to amend Section 14202.2 of the Penal Code, and to amend Sections 6603 and 6604 of, and to amend and repeal Section 6604.1 of, the Welfare and Institutions Code, relating to sexually violent predators, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 2000. Filed  
with Secretary of State September 13, 2000.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 2018, Schiff. Sexually violent predators: commitment evaluations.

(1) Existing law provides that the Attorney General shall establish and maintain the Violent Crime Information Center, as specified, and provides that the Department of Justice, in conjunction with the Department of Corrections, shall update any supervised release file available to law enforcement via a specified information system to reflect the most recent paroled inmates.

This bill would provide that commencing on July 1, 2001, the Department of Justice shall also work in conjunction with the State Department of Mental Health in updating this information system to reflect patients undergoing community mental health treatment and supervision through the Forensic Conditional Release Program administered by the State Department of Mental Health, other than individuals committed as incompetent to stand trial.

(2) Existing law provides that a person who is subject to commitment as a sexually violent predator, as defined, shall be entitled to a trial by jury, the assistance of counsel, the right to retain experts to perform an examination on his or her behalf, and shall have access to all relevant medical and psychological records and reports. Existing law provides that the attorney bringing the petition to have the defendant committed also has the right to demand a trial by jury, but if no demand for a jury trial is made by either side, that the trial shall be conducted before a court without a jury. Existing law also provides for the examination of a person subject to commitment under these provisions by at least 2 psychiatrists or psychologists designated by the State Department of Mental Health, with additional evaluations to be performed as specified.

This bill would provide that the attorney bringing the petition to have a person committed as a sexually violent predator may request the State Department of Mental Health to perform updated evaluations as specified, and if an original evaluator is no longer

available to testify, a replacement evaluation. The bill would direct the department to perform the requested evaluations and forward them to the petitioning attorney, but would provide that updated or replacement evaluations shall only be performed for these specified reasons. This bill would provide that an updated or replacement evaluation shall include a review of available medical and psychological records, including treatment records, consultation with treating clinicians, and voluntary or court-ordered interviews with the subject, and would also provide that if an updated or replacement evaluation results in a split opinion as to whether the subject meets the criteria for commitment, the department shall conduct 2 additional evaluations as specified.

(3) Existing law provides that the court or jury shall determine whether, beyond a reasonable doubt, a person is a sexually violent predator, and if the court or jury does so, that the person shall be committed for 2 years to the custody of the State Department of Mental Health for treatment and confinement within a secure facility. Existing law provides that the person shall not be kept in actual custody under these provisions for longer than 2 years unless a subsequent extended commitment is obtained from the court incident to the filing of a new petition for commitment, or unless the term of commitment changes as specified. Existing law also provides that, until July 1, 2001, this 2-year period of commitment commences on the date upon which the court issues the order of commitment and shall not be reduced by any time spent in a secure facility prior to the order of commitment.

This bill would clarify that a person may be confined beyond this 2-year period pursuant to the filing of a petition for extended commitment, which would result in an additional 2-year term of commitment, and would also delete the automatic repeal of the provision prohibiting the reduction of the term of commitment for time spent in a secure facility prior to the order of commitment, thereby making this provision applicable indefinitely. This bill would also provide that evaluations for extended commitments shall be performed by 2 psychologists or psychiatrists designated by the department, and that specified existing provisions relating to commitment evaluation standards and to the rights of the person subject to commitment shall also apply with respect to evaluations for extended commitments.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

*The people of the State of California do enact as follows:*

SECTION 1. Section 14202.2 of the Penal Code is amended to read:



14202.2. (a) The Department of Justice, in conjunction with the Department of Corrections, shall update any supervised release file that is available to law enforcement on the California Law Enforcement Telecommunications System every 10 days to reflect the most recent inmates paroled from facilities under the jurisdiction of the Department of Corrections.

(b) Commencing on July 1, 2001, The Department of Justice, in consultation with the State Department of Mental Health, shall also update any supervised release file that is available to law enforcement on the California Law Enforcement Telecommunications System every 10 days to reflect patients undergoing community mental health treatment and supervision through the Forensic Conditional Release Program administered by the State Department of Mental Health, other than individuals committed as incompetent to stand trial pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2.

SEC. 2. Section 6603 of the Welfare and Institutions Code is amended to read:

6603. (a) A person subject to this article shall be entitled to a trial by jury, the assistance of counsel, the right to retain experts or professional persons to perform an examination on his or her behalf, and have access to all relevant medical and psychological records and reports. In the case of a person who is indigent, the court shall appoint counsel to assist him or her, and, upon the person's request, assist the person in obtaining an expert or professional person to perform an examination or participate in the trial on the person's behalf.

(b) The attorney petitioning for commitment under this article shall have the right to demand that the trial be before a jury.

(c) If the attorney petitioning for commitment under this article determines that updated evaluations are necessary in order to properly present the case for commitment, the attorney may request the State Department of Mental Health to perform updated evaluations. If one or more of the original evaluators is no longer available to testify in court proceedings, the attorney petitioning for commitment under this article may request the State Department of Mental Health to perform replacement evaluations. When a request is made for an updated or replacement evaluation, the State Department of Mental Health shall perform the requested evaluations and forward them to the petitioning attorney. However, updated or replacement evaluations shall not be performed except as necessary to update one or more of the original evaluations or to replace the evaluation of an evaluator that is no longer available for testimony. These updated or replacement evaluations shall include review of available medical and psychological records, including treatment records, consultation with current treating clinicians, and interviews of the person being evaluated, either voluntarily or by court order. If an updated or replacement evaluation results in a split

opinion as to whether the subject meets the criteria for commitment, the State Department of Mental Health shall conduct two additional evaluations in accordance with subdivision (f) of Section 6601.

(d) If no demand is made by the person subject to this article or the petitioning attorney, the trial shall be before the court without jury.

(e) A unanimous verdict shall be required in any jury trial.

(f) The court shall notify the State Department of Mental Health of the outcome of the trial by forwarding to the department a copy of the minute order of the court within 72 hours of the decision.

SEC. 3. Section 6604 of the Welfare and Institutions Code is amended to read:

6604. The court or jury shall determine whether, beyond a reasonable doubt, the person is a sexually violent predator. If the court or jury is not satisfied beyond a reasonable doubt that the person is a sexually violent predator, the court shall direct that the person be released at the conclusion of the term for which he or she was initially sentenced, or that the person be unconditionally released at the end of parole, whichever is applicable. If the court or jury determines that the person is a sexually violent predator, the person shall be committed for two years to the custody of the State Department of Mental Health for appropriate treatment and confinement in a secure facility designated by the Director of Mental Health, and the person shall not be kept in actual custody longer than two years unless a subsequent extended commitment is obtained from the court incident to the filing of a petition for extended commitment under this article or unless the term of commitment changes pursuant to subdivision (e) of Section 6605. Time spent on conditional release shall not count toward the two-year term of commitment, unless the person is placed in a locked facility by the conditional release program, in which case the time in a locked facility shall count toward the two-year term of commitment. The facility shall be located on the grounds of an institution under the jurisdiction of the Department of Corrections.

SEC. 4. Section 6604.1 of the Welfare and Institutions Code, as amended by Section 7 of Chapter 961 of the Statutes of 1998, is amended to read:

6604.1. (a) The two-year term of commitment provided for in Section 6604 shall commence on the date upon which the court issues the initial order of commitment pursuant to that section. The initial two-year term shall not be reduced by any time spent in a secure facility prior to the order of commitment. For any subsequent extended commitments, the term of commitment shall be for two years commencing from the date of the termination of the previous commitment.

(b) The person shall be evaluated by two practicing psychologists or psychiatrists, or by one practicing psychologist and one practicing

psychiatrist, designated by the State Department of Mental Health. The provisions of subdivisions (c) to (i), inclusive, of Section 6601 shall apply to evaluations performed for purposes of extended commitments. The rights, requirements, and procedures set forth in Section 6603 shall apply to extended commitment proceedings.

SEC. 5. Section 6604.1 of the Welfare and Institutions Code, as added by Section 8 of Chapter 961 of the Statutes of 1998, is repealed.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to clarify recommitment and placement procedures to avoid the possible inappropriate release of sexually violent predators, it is necessary that this bill take effect immediately.

